

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0080

Gross Income Tax and Adjusted Gross Income Tax
Fiscal Years Ended 04/30/94, 04/30/95, and 04/30/96

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. **Tax Administration**— Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, incorporated under the laws of Pennsylvania, was audited for fiscal years 1994, 1995, and 1996. Upon audit it was discovered that the taxpayer failed to correctly include high rate receipts from service labor and equipment rentals. In addition taxpayer failed to add back state income and property taxes. The failures resulted in more than twenty-five percent tax due.

The Taxpayer has withdrawn its protest on the tax issue due to the preparation of a supplemental audit that reduced the gross income for 1994 and 1995. Taxpayer protests the penalty assessed.

I. **Tax Administration**— Penalty

DISCUSSION

Taxpayer was assessed a negligence penalty because it failed to correctly report its high rate income for all audit years. The assessments resulted in an underpayment of more than twenty-five percent in tax. Taxpayer also failed to add back income and property taxes.

Taxpayer, in a protest received on May 28, 1998, states it had no disregard for the rules and regulations of the State of Indiana as it relates to corporate taxes; it is a substantial taxpayer in the State of Indiana and has always filed all tax documents timely with all balance due paid on a timely basis; taxes paid with the original returns were based on prior year estimates; immediate action has been taken to assure correct reporting; and the penalty would create additional financial hardship on the taxpayer.

02980080.LOF
PAGE #2

The reasons stated, however, are not considered reasonable cause. In addition, the taxpayer had a Certified Public Accountant prepare the returns.

Taxpayer failed to correctly file returns for all years of the audit. Therefore the negligence penalty is appropriate.

FINDING

Taxpayer's protest is denied.

DW/RAW/JMS/--990610